

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

In re: BAIR HUGGER FORCED AIR
WARMING DEVICES PRODUCTS
LIABILITY LITIGATION

MDL No. 15-2666 (JNE/FLN)

This Document Relates To:
All Actions

**DEFENDANTS' MOTION TO
COMPEL THIRD-PARTY
AUGUSTINE ENTITIES TO
PRODUCE DOCUMENTS IN
RESPONSE TO SUBPOENAS**

Pursuant to Federal Rule of Civil Procedure 37(a) and Local Rules 7.1 and 37.1, Defendants 3M Company and Arizant Healthcare Inc. (collectively "Defendants") respectfully move the Court for an order compelling Dr. Scott Augustine and his related entities (collectively "Augustine") to comply with the discovery obligations imposed by Defendants' June 7, 2016 subpoena *duces tecum*. As set forth in the accompanying memorandum of law, Defendants seek the Court's assistance as follows:

1. Ordering Augustine (a) to identify and produce documents, ESI and emails responsive to requests 4, 6, 10-12, 14, 15, 17, 18, 29, 31, 32, 35, 38-41, 44-49, 51-55, and 58 in Defendants' subpoenas, (b) to list on a privilege log, any documents, ESI, or emails withheld from production, and (c) to provide a sworn statement identifying all record custodians whose documents, emails and ESI he searched, which hard-copy and electronic files he searched (i.e., personal emails, company emails, desktop files and/or computer drives), and what keywords or other methods he used to identify responsive ESI and emails;
2. Ordering Augustine to provide additional detail sufficient to permit Defendants and the Court to evaluate his claim of privilege, specifically including as to each document the parties to the communication, the date and time(s) of the communications, the specific litigation addressed by the communication, the basis for the claim of privilege or other protection, and a sworn statement identifying the beginning and ending dates of any periods during which Augustine claims he had either an attorney-client

relationship or a litigation consultant relationship with the Kennedy Hodges law firm, and the general nature of the representation or consultancy;

3. Ordering Augustine to produce documents responsive to Defendants' subpoena requests 39, 41, 49 and 52 relating to the performance of the HotDog product; and
4. Awarding Defendants their costs and reasonable attorneys' fees incurred in connection with bringing this Motion.

Because Defendants cannot obtain the information at issue by other means, they respectfully request that the Court grant this motion and issue the proposed Order.

Dated: November 3, 2016

Respectfully submitted,

s/Bridget M. Ahmann

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